



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

| APPLICATION NO.                                                                                                                                                                                  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.                                  | CONFIRMATION NO.                          |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|----------------------|------------------------------------------------------|-------------------------------------------|
| 10/532,559                                                                                                                                                                                       | 04/22/2005  | Martin Albers        | 23252                                                | 4390                                      |
| <div>535                      7590                      12/28/2007</div> <div>K.F. ROSS P.C.</div> <div>5683 RIVERDALE AVENUE</div> <div>SUITE 203 BOX 900</div> <div>BRONX, NY 10471-0900</div> |             |                      |                                                      |                                           |
|                                                                                                                                                                                                  |             |                      | <div>EXAMINER</div> <div>ELOSHWAY, NIKI MARINA</div> |                                           |
|                                                                                                                                                                                                  |             |                      | <div>ART UNIT</div> <div>3781</div>                  | <div>PAPER NUMBER</div>                   |
|                                                                                                                                                                                                  |             |                      | <div>MAIL DATE</div> <div>12/28/2007</div>           | <div>DELIVERY MODE</div> <div>PAPER</div> |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                       |  |
|------------------------------|--------------------------------------|---------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/532,559 | <b>Applicant(s)</b><br>ALBERS, MARTIN |  |
|                              | <b>Examiner</b><br>Niki M. Eloshway  | <b>Art Unit</b><br>3781               |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 9-16 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                           |                                                                                        |
|-----------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                               | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                      | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____                                                |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 9, 10, 12, 14, 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Acton (U.S. 4,024,976). Acton teaches a closure assembly, shown in figure 6, having a neck part at 6, a cap part 3, interengaging means at 11 and on element 8(or 23), and annular formations at 14 and the lower portion of element 8 (or 23). Both element 14 and the closure skirt are elastically deformable.
3. Claims 9-14 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Botkin (U.S. 3,716,162). Botkin teaches a closure assembly, shown in figure 3, having a neck part at the upper end of 10, a cap part 16, interengaging means at 14 and 24, and annular formations at 36 and 40. Element 36 is elastically deformable. The container neck has a large diameter portion and a small diameter portion, shown in figure 3

### *Conclusion*

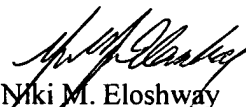
4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art is cited for the collar.
5. THIS ACTION IS NON-FINAL.
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niki M. Eloshway whose telephone number is 571-272-4538. The examiner can normally be reached on Monday through Friday.

Application/Control Number:  
10/532,559  
Art Unit: 3781

Page 3

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Niki M. Eloshway  
Examiner  
Art Unit 3781

nme